

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

AMENDED

CRIMINAL COMPLAINT

Neclaudio Tavares Pinho,
a/k/a Neclaudio De Pinho Tavares
YOB 1963
22 Briarwood Lane, Apt. 11
Marlborough, MA 01752-2504

M.J. No. 04-M-00061-LPC

(Name and Address of Defendant.)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about December 19, 2001 in Essex county, in the District of Massachusetts defendant,

did knowingly possess an identification document that is or appears to be an identification document of the United States which was . . . produced without lawful authority knowing that such document was . . . produced without such authority,

in violation of Title 18 United States Code, Section 1028(a)(6).

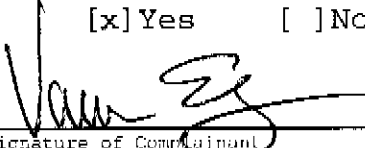
I further state that I am a(n) Special Agent of the U.S. Social Security Administration
Official Title

and that this complaint is based upon the following facts:

See Affidavit attached hereto and incorporated by reference herein.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No



Signature of Complainant

Vance Ely

Special Agent

U.S. Social Security Administration

Sworn to before me and subscribed in my presence,

September 10, 2004

Date

at Boston, Massachusetts

City and State

LAWRENCE P. COHEN
U.S. Magistrate Judge

Name and Title of Judicial Officer



Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT VANCE ELY

I, Vance Ely, having been duly sworn, do hereby depose and state as follows:

1. I have been a Special Agent with the United States Social Security Administration ("SSA"), Office of the Inspector General, Office of Investigations, Boston Field Office, since May 1997. My duties include investigating violations of Title 42 and Title 18 of the United States Code. During the period of my employment, I have conducted numerous investigations of fraud and other criminal violations. I was previously employed by the United States Department of Justice, Immigration & Naturalization Service, as an Immigration Inspector for 4 ½ years. I also hold a Bachelor of Science degree from Westfield State College.

2. SSA is an agency within the Executive Branch of the United States Government responsible for approving applications for Social Security Numbers and issuing Social Security Number Cards to eligible applicants, as well as managing and administering retirement, disability, survivor benefits, and Supplemental Security Income programs to our nation's eligible beneficiaries.

3. The Social Security Act (42 U.S.C. §301 et seq.) was enacted in 1935 to provide for the general welfare by establishing a system of Federal Benefits. The Social Security Number ("SSN"), a nine digit number, was devised as a means to keep track of the earnings of individuals who work under covered employment. Along with the SSN, the Social Security Number Card ("SSNC") was created. SSNCs are issued with or without employment restrictions depending upon the eligibility of the individual making application. The Social Security Number Card bears a Social Security Number; shows the name of the person whose record is identified by that SSN; and contains a space for the person's signature.

4. The information set forth in this affidavit is based on my own investigation, my review of relevant SSA records, and information provided by others. This affidavit does not contain all information received during the course of the investigation but contains those facts that I believe are necessary and sufficient to establish probable cause for the issuance of the requested criminal complaint charging PINHO with fraud in violation of 18 U.S.C. §1028(a)(6).¹

¹18 U.S.C. §1028(a)(6) provides in pertinent part: Whoever ... knowingly possesses an identification document that is or appears to be an identification document of the United States which is ... produced without lawful authority knowing that such document was ... produced without such authority [shall be guilty of a crime].

5. Defendant Neclaudio Tavares Pinho, a/k/a Necaludio De Pinho Tavares, YOB 1963 ("PINHO") is a native and citizen of Brazil and, according to records maintained by Immigration and Customs Enforcement, at all relevant times he has not been present legally in the United States.

6. As an alien illegally present in the United States, PINHO is not entitled to receive a Social Security Account number card.

7. On November 14, 2001, PINHO applied for an SSNC. PINHO falsely represented on the application, known as an SS-5, that he was a "Legal Alien Allowed to Work", knowing that, in truth and in fact, he was not.²

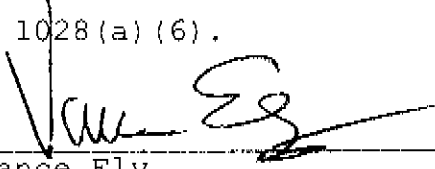
8. As a result of providing false information, PINHO received and possessed a Social Security card with social security account number 033-84-7388.

9. On December 19, 2001, PINHO applied for a Massachusetts driver's license. On the application, PINHO used the SSN which he had fraudulently obtained by providing the SSN

²Defendant's SS-5 application was processed by former SSA employee Jesse Rocha. On September 8, 2003, he pled guilty to conspiracy to commit fraud in connection with identification documents in violation of 18 U.S.C. §1028(f); conspiracy to commit offenses against the United States in violation of 18 U.S.C. §371; conspiracy to launder monetary instruments in violation of 18 U.S.C. §1956(h) and fraud and misuse of documents in violation of 18 U.S.C. §1546(a). During his plea colloquy, Rocha admitted to processing and approving over 1700 applications for SSNCs for illegal aliens during the period from April 2000 to December 2002. See Ind. 02-10405-GAO.

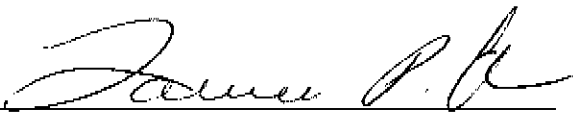
to the RMV. As a result, a Massachusetts driver's license was issued to PINHO.

Based upon the foregoing information, I believe there is probable cause to believe that on December 19, 2001, PINHO did knowingly possess an identification document that is or appears to be an identification document of the United States which was . . . produced without lawful authority knowing that such document was . . . produced without such authority in violation of Title 18, United States Code, Section 1028(a)(6).



Vance Ely
Special Agent
United States Social Security
Administration
Office of Inspector General

Subscribed and sworn to before me this 10th day of September 2004.



LAWRENCE P. COHEN
UNITED STATES MAGISTRATE JUDGE

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. III Investigating Agency SSACity Beverly**Related Case Information:**County EssexSuperseding Ind./ Inf. Complaint Case No. _____
Same Defendant X New Defendant _____
Magistrate Judge Case Number 04-M-00061-LPC
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Neclaudio Tavares Pinho Juvenile: ☐ Yes ☒ NoAlias Name Neclaudio De Pinho TavaresAddress 22 Briarwood Lane, Apt. 11, Marlborough, MA 01752-2504Birthdate: 1963 SS # 7388 Sex: M Race: _____ Nationality BrazilDefense Counsel if known: David Summer/Brian Carr Address 77 Franklin Street, 3d floorBar Number 634514 Boston, MA 02110**U.S. Attorney Information:**AUSA Colin Owyang Bar Number if applicable _____Interpreter: ☒ Yes ☐ No List language and/or dialect: PortugueseMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date 8/31/2004X Already in Federal Custody as of 8/31/04 in Boston☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: ☒ Complaint ☐ Information ☐ IndictmentTotal # of Counts: ☐ Petty _____ ☒ Misdemeanor 1 ☐ Felony _____

Continue on Page 2 for Entry of U.S.C. Citations

X I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: September 10, 2004 Signature of AUSA: Colin Owyang

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Neclaudio Tavares Pinho, a/k/a Neclaudio De Pinho Tavares

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 U.S.C. §1028(a)(6)</u>	<u>Fraud in connection with identification documents</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____
